



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,084	03/23/2006	Marcellinus P.C.M. Krijn	GB030164	6994
24737 7590 08/18/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER ANDERSON, GUY G				
ART UNIT 2883		PAPER NUMBER		
MAIL DATE 08/18/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,084

Applicant(s)

KRIJN ET AL.

Examiner

Guy G. Anderson

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) 39-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 21-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

- 1.1 Claims 1-20 are canceled.
Claims 21-40 are added.
Claims 21-40 are subject to further election/restriction requirement as noted below.
Claim 39 is withdrawn as having limitations drawn to non elected species A.
Claim 40 is withdrawn as having limitations drawn to non elected species L.

Election/Restrictions

- 2.1 In response to the election/restriction requirement of 5/14/2008, applicant has elected Species B, C and G WITH traverse.
- 2.2 Examiner has considered applicants arguments in traversal of the election/restriction requirement but they are unpersuasive.
First of all, as noted in the previous election requirement, a determination of patentability for any one of the disclosed species does not necessarily confirm patentability of any other disclosed species. Further, after further consideration, examiner agrees with applicant that claim 21 is generic. Therefore, any dependant claims withdrawn as having limitations drawn to non-elected species are subject to rejoinder should claim 21 be found allowable.
- 2.3 In regards to PCT restriction requirements, examiner disagrees with applicants conclusions regarding MPEP§1850 and PCT §13.2. Applicants argue that "By definition, each of the dependent claims share a single general inventive concept with the claims from which each depends and accordingly are excluded from consideration for unity of invention." [Applicants remarks dated 6/9/2008 at page 10.]

This statement is only partially correct. While dependant claims always share a single general concept with the independent claim from which they depend, it is entirely possible that a dependant claim may have the only general inventive concept embodied within the claim which is distinct and separate from the general concept of each dependant claim drawn to alternate species. Therefore, unity of invention is not known to exist in those cases.

Further, PCT §13.2 states “Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.”

MPEP§1850 also states that “Whether or not any particular technical feature makes a “contribution” over the prior art, and therefore constitutes a “special technical feature,” should be considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept. Lack of unity of invention may be directly evident “a priori,” that is, before considering the claims in relation to any prior art...”

Examiner maintains that “a priori” a backlight for a 3d display device comprising a planar light guide through which light is guided transversely by TIR, lacks novelty and inventive step over the prior art.

- 2.4 This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. The species are as follows:

Groove Filling Material

- M) wherein the material is Poly (naphthyl methacrylate) [see applicants specification at page 3, lines 31]
- N) wherein the material is a composite material [see applicants specification at page 3, lines 32]

O) wherein the material is Poly-Ethylene-Terephthalate (PET) [see applicants specification at page 4, lines 6]

P) wherein the material is Poly-Ethylene-Naphtalate (PEN) [see applicants specification at page 4, lines 7]

Birefringent Material

Q) wherein the groove filling material is birefringent as described in applicants' specification at page 4, line 1.

R) wherein the groove filling material is **NOT** birefringent

- 2.5 Applicant is required, in reply to this action, to elect a single species from the group M-P and a single species from the group Q-R for a total of two species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.
- 2.6 Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
- The following claim(s) are generic: 21.
- 2.7 The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the species cited above contain mutually exclusive structural limitations for which no known unity of invention exists. A determination of patentability for any one of the disclosed species would not confirm patentability of any other disclosed species.
- 2.8 Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

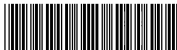
Art Unit: 2883

- 2.9 The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Conclusion

- 3.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy G. Anderson whose telephone number is 571.272.8045. The examiner can normally be reached on Tuesday-Saturday 0900-2200.
- 3.2 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571.272.2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
- 3.3 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.
- 3.4 Date and signature of assistant examiner:

/Guy G Anderson/ Examiner, Art Unit 2883 August 14, 2008	/Frank G Font/ Supervisory Patent Examiner, Art Unit 2883
--	--

Application Number**Application/Control No.**

10/573,084

**Applicant(s)/Patent under
Reexamination**

KRIJN ET AL.

Examiner

Guy G. Anderson

Art Unit

2883